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OFFICE OF PETITIONS

In re Application of :
Moss, et al. : LETTER REGARDING PTA
Application No. 10/024,645 :
Filed: December 14, 2001 :
Atty. Dkt. No.: 8285/458 :

This letter is in response to the "REQUEST FOR REVIEW OF PATENT TERM ADJUSTMENT," filed March 6, 2006. The Office thanks applicants for their good faith and candor in bringing this to our attention.

Applicants indicate that the PTA of 796 days indicated on the Determination of Patent Term Adjustment Under 35 U.S.C. 154(b), mailed December 16, 2005, may extend the patent by too many days. Applicants have not specified the nature of the potential error and have requested that the calculation be reviewed and, if necessary, corrected.

A careful review of the application history does not reveal an error in the calculation. It is noted that the instant application is subject to a terminal disclaimer. The Office calculates patent term adjustment for examination delay in all eligible applications. In calculating the patent term adjustment, the Office does not differentiate between applications that have terminal disclaimers and those that do not. Nor does the Office undertake the burdensome task of reviewing every application with a terminal disclaimer to determine if the patent term adjustment accorded would adjust the term beyond the expiration date specified in the disclaimer.

Rather, on issuance of the application, in compliance with 35 U.S.C. 154(b) and 37 CFR § 1.703(g), it is indicated in the patent that the patent term adjustment indicated therein is subject to any disclaimer.

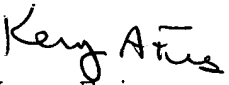
In view thereof, at the time of allowance, the application was entitled to a PTA of 796 days.

As this letter was submitted as an advisement to the Office of an error in applicants' favor, the Office will not assess the \$200.00 application fee under 37 CFR 1.705(b). The Office thanks applicants for their good faith and candor in bringing this to the attention of the Office.

If applicants remain of the belief that an error exists in the calculation of patent term adjustment, a response to this letter should be forthcoming, setting forth with specificity the exact nature of the error in calculation.

This application is being forwarded to the Office of Patent Publication for further processing.

Telephone inquiries specific to this matter should be directed to Petitions Attorney Alesia M. Brown at (571) 272-3205.


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Office of Deputy Commissioner
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